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American Institute of Certified Public Accountants

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Code of Professional Ethics

as amended December 30, 1969

and Interpretive Opinions

American Institute of Certified Public Accountants



Code of Professional Ethics

as amended December 30, 1969

□ and Interpretive Opinions

American Institute of Certified Public Accountants
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Code of Professional Ethics

American Institute of Certified Public Accountants

AS AMENDED DECEMBER 30, 1969

The reliance of the public and the business community on sound financial reporting and advice on business affairs imposes on the accounting profession an obligation to maintain high standards of technical competence, morality and integrity. To this end, a member or associate of the American Institute of Certified Public Accountants shall at all times maintain independence of thought and action, hold the affairs of his clients in strict confidence, strive continuously to improve his professional skills, observe generally accepted auditing standards, promote sound and informative financial reporting, uphold the dignity and honor of the accounting profession and maintain high standards of personal conduct.

In further recognition of the public interest and his obligation to the profession, a member or associate agrees to comply with the following rules of ethical conduct, the enumeration of which should not be construed as a denial of the existence of other standards of conduct not specifically mentioned:

ARTICLE 1: Relations with Clients and Public

- 1.01 Neither a member or associate, nor a firm of which he is a partner, shall express an opinion on financial statements of any enterprise unless he and his firm are in fact independent with respect to such enterprise.

Independence is not susceptible of precise definition, but is an expression of the professional integrity of the individual. A member or associate, before expressing his opinion on financial statements, has the responsibility of assessing his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts.

A member or associate will be considered not independent, for example, with respect to any enterprise if he, or one of his partners, (a) during the period of his professional engagement or at the time of expressing his opinion, had, or was committed to acquire, any direct financial interest or material indirect financial interest in the enterprise, or (b) during the period of his professional engagement, at the time of expressing his opinion or during the period covered by the financial statements, was connected with the enterprise as a promoter, underwriter, voting trustee, director, officer or key employee. In cases where a member or associate ceases to be the independent accountant for an enterprise and is subsequently called upon to re-express a previously expressed opinion on financial statements, the phrase "at the time of expressing his opinion" refers only to the time at which the member or associate first expressed his opinion on the financial statements in question. The word "director" is not intended to apply to a connection in such a capacity with a charitable, religious, civic or other similar type of nonprofit organization when the duties performed in such a capacity are such as to make it clear that the member or associate can express an independent opinion on the financial statements. The example cited in this paragraph, of circumstances under which a member or associate will be considered not independent, is not intended to be all-inclusive. [See Opinion Nos. 12, 15 and 16.]

- 1.02 A member or associate shall not commit an act discreditable to the profession.
- 1.03 A member or associate shall not violate the confidential relationship between himself and his client. [See Opinion No. 3.]

- 1.04 Professional service shall not be rendered or offered for a fee which shall be contingent upon the findings or results of such service. This rule does not apply to cases involving federal, state, or other taxes, in which the findings are those of the tax authorities and not those of the accountant. Fees to be fixed by courts or other public authorities, which are therefore of an indeterminate amount at the time when an engagement is undertaken, are not regarded as contingent fees within the meaning of this rule.

ARTICLE 2: Technical Standards

- 2.01 A member or associate shall not express his opinion on financial statements unless they have been examined by him, or by a member or employee of his firm, on a basis consistent with the requirements of Rule 2.02.

In obtaining sufficient information to warrant expression of an opinion he may utilize, in part, to the extent appropriate in the circumstances, the reports or other evidence of auditing work performed by another certified public accountant, or firm of public accountants, at least one of whom is a certified public accountant, who is authorized to practice in a state or territory of the United States or the District of Columbia, and whose independence and professional reputation he has ascertained to his satisfaction.

A member or associate may also utilize, in part, to the extent appropriate in the circumstances, the work of public accountants in other countries, but the member or associate so doing must satisfy himself that the person or firm is qualified and independent, that such work is performed in accordance with generally accepted auditing standards, as prevailing in the United States, and that financial statements are prepared in accordance with generally accepted accounting principles, as prevailing in the United States, or are accompanied by the information necessary to bring the statements into accord with such principles.

- 2.02 In expressing an opinion on representations in financial statements which he has examined, a member or associate may be held guilty of an act discreditable to the profession if:

(a) he fails to disclose a material fact known to him which is not disclosed in the financial statements but disclosure of which is neces-

sary to make the financial statements not misleading; or

(b) he fails to report any material misstatement known to him to appear in the financial statement; or

(c) he is materially negligent in the conduct of his examination or in making his report thereon; or

(d) he fails to acquire sufficient information to warrant expression of an opinion, or his exceptions are sufficiently material to negative the expression of an opinion; or

(e) he fails to direct attention to any material departure from generally accepted accounting principles or to disclose any material omission of generally accepted auditing procedure applicable in the circumstances. [See Opinion Nos. 8 and 18.]

2.03 A member or associate shall not permit his name to be associated with statements purporting to show financial position or results of operations in such a manner as to imply that he is acting as an independent public accountant unless he shall:

(a) express an unqualified opinion; or

(b) express a qualified opinion; or

(c) express an adverse opinion; or

(d) disclaim an opinion on the statements taken as a whole and indicate clearly his reasons therefor; or

(e) when unaudited financial statements are presented on his stationery without his comments, disclose prominently on each page of the financial statements that they were not audited. [See Opinion Nos. 8, 13 and 15.]

2.04 A member or associate shall not permit his name to be used in conjunction with any forecast of the results of future transactions in a manner which may lead to the belief that the member or associate vouches for the accuracy of the forecast. [See Opinion No. 10.]

ARTICLE 3: Promotional Practices

3.01 A member or associate shall not advertise his professional attainments or services.

Publication in a newspaper, magazine or similar medium of an announcement or what is technically known as a card is prohibited.

A listing in a directory is restricted to the name, title, address and telephone number of the person or firm, and it shall not appear in a box, or other form of display or in a type or style which differentiates it from other listings in the same directory. Listing of the same name in more than one place in a classified directory is prohibited. [See Opinion Nos. 1, 2, 4, 9 and 11.]

- 3.02 A member or associate shall not endeavor, directly or indirectly, to obtain clients by solicitation. [See Opinion Nos. 1, 9, 11 and 18.]
- 3.03 A member or associate shall not make a competitive bid for a professional engagement. Competitive bidding for public accounting services is not in the public interest, is a form of solicitation, and is unprofessional.*
- 3.04 Commissions, brokerage, or other participation in the fees or profits of professional work shall not be allowed or paid directly or indirectly by a member or associate to any individual or firm not regularly engaged or employed in the practice of public accounting as a principal occupation.
- Commissions, brokerage, or other participation in the fees, charges or profits of work recommended or turned over to any individual or firm not regularly engaged or employed in the practice of public accounting as a principal occupation, as incident to services for clients, shall not be accepted directly or indirectly by a member or associate. [See Opinion Nos. 6 and 17.]

ARTICLE 4: Operating Practices

- 4.01 A firm or partnership, all the individual members of which are members of the Institute, may describe itself as "Members of the American Institute of Certified Public Accountants," but a firm or partnership, not all the individual members of which are members of the Institute, or an individual practicing under a style denoting

* On the advice of legal counsel that Rule 3.03 subjects the Institute and its representatives to risks under the federal antitrust laws, the Institute's Board of Directors, Council and division of professional ethics have decided that the Institute will continue to refrain from taking any disciplinary action against any member or associate under Rule 3.03 until there has been a change in circumstances that would justify a different opinion on the legal status of the Rule.

a partnership when in fact there be no partner or partners, or a corporation, or an individual or individuals practicing under a style denoting a corporate organization shall not use the designation "Members of the American Institute of Certified Public Accountants."

- 4.02 A member or associate shall not practice in the name of another unless he is in partnership with him or in his employ, nor shall he allow any person to practice in his name who is not in partnership with him or in his employ.

This rule shall not prevent a partnership or its successors from continuing to practice under a firm name which consists of or includes the name or names of one or more former partners, nor shall it prevent the continuation of a partnership name for a reasonable period of time by the remaining partner practicing as a sole proprietor after the withdrawal or death of one or more partners.

- 4.03 A member or associate in his practice of public accounting shall not permit an employee to perform for the member's or associate's clients any services which the member or associate himself or his firm is not permitted to perform. [See Opinion No. 17.]

- 4.04 A member or associate shall not engage in any business or occupation conjointly with that of a public accountant, which is incompatible or inconsistent therewith.

- 4.05 A member or associate engaged in an occupation in which he renders services of a type performed by public accountants, or renders other professional services, must observe the bylaws and Code of Professional Ethics of the Institute in the conduct of that occupation. [See Opinion Nos. 7 and 17.]

- 4.06 A member or associate may offer services of a type performed by public accountants only in the form of either a proprietorship, or a partnership, or a professional corporation or association whose characteristics conform to resolutions of Council.

The following resolution of Council was approved at the spring meeting of Council at Colorado Springs on May 6, 1969:

WHEREAS, if the membership of the Institute approves the proposed amendment of Rule 4.06 of the Code of Professional Ethics

permitting the practice of public accounting in the form of a professional corporation or association whose characteristics shall be established by the Council, it is hereby

RESOLVED, that members may be officers, directors, stockholders, representatives or agents of a corporation offering services of a type performed by public accountants only when the professional corporation or association has the following characteristics:

1. *Name.* The name under which the professional corporation or association renders professional services shall contain only the names of one or more of the present or former shareholders or of partners who were associated with a predecessor accounting firm. Impersonal or fictitious names, as well as names which indicate a speciality, are prohibited.

2. *Purpose.* The professional corporation or association shall not provide services that are incompatible with the practice of public accounting.

3. *Ownership.* All shareholders of the corporation or association shall be persons duly qualified to practice as a certified public accountant in a state or territory of the United States or the District of Columbia. Shareholders shall at all times own their shares in their own right, and shall be the beneficial owners of the equity capital ascribed to them.

4. *Transfer of Shares.* Provision shall be made requiring any shareholder who ceases to be eligible to be a shareholder to dispose of all of his shares within a reasonable period to a person qualified to be a shareholder or to the corporation or association.

5. *Directors and Officers.* The principal executive officer shall be a shareholder and a director, and to the extent possible, all other directors and officers shall be certified public accountants. Lay directors and officers shall not exercise any authority whatsoever over professional matters.

6. *Conduct.* The right to practice as a corporation or association shall not change the obligation of its shareholders, directors, officers and other employees to comply with the standards of professional conduct established by the American Institute of Certified Public Accountants.

7. *Liability.* The stockholders of professional corporations or associations shall be jointly and severally liable for the acts of a corporation or association, or its employees—except where professional liability insurance is carried, or capitalization is maintained, in amounts

deemed sufficient to offer adequate protection to the public. Liability shall not be limited by the formation of subsidiary or affiliated corporations or associations each with its own limited and unrelated liability.

In a report approved by the Council at the fall 1969 meeting, the Board of Directors recommended that professional liability insurance or capitalization in the amount of \$50,000 per shareholder/officer and professional employee to a maximum of \$2,000,000 would offer adequate protection to the public. Members contemplating the formation of a corporation under this rule should ascertain that no further modifications in the characteristics have been made.

ARTICLE 5: Relations with Fellow Members

- 5.01 A member or associate shall not encroach upon the practice of another public accountant. A member or associate may furnish service to those who request it. [See Opinion Nos. 1, 9 and 11.]
- 5.02 A member or associate who receives an engagement for services by referral from another member or associate shall not discuss or accept an extension of his services beyond the specific engagement without first consulting with the referring member or associate.
- 5.03 Direct or indirect offer of employment shall not be made by a member or associate to an employee of another public accountant without first informing such accountant. This rule shall not be construed so as to inhibit negotiations with anyone who of his own initiative or in response to public advertisement shall apply to a member or associate for employment.

Numbered Opinions

Of Division of Professional Ethics

Before the division of professional ethics was formed, the committee on professional ethics was responsible for drafting, approving and issuing opinions; this is the committee referred to in Opinion Nos. 1-18. In 1968 the division of professional ethics was established. This includes an executive committee (ethics committee) and the seven following constituent committees:

- Committee on independence
- Committee on technical standards
- Committee on relations with clients and public
- Committee on promotional practices
- Committee on operational practices
- Committee on code restatement
- Committee on relations with state societies and boards

All future Opinions will be drafted by the committee(s) concerned with the subject under study. These will then go to the executive committee for final approval before being issued as Opinions of the division of professional ethics. To date only Opinion No. 19 was drafted, approved and issued in this manner.

Numbered Opinions

OPINION NO. 1: Newsletters, Publications

Impropriety of members' furnishing clients and others with tax and similar booklets prepared by others and imprinted with firm name of member

In the opinion of the committee, imprinting the name of the accountant on newsletters, tax booklets or other similar publications which are prepared by others and distributed by a member of the Institute does not add to the usefulness of the material to the reader. Use of the imprint, in the committee's opinion, is objectionable in that it tends to suggest (and has been interpreted by many as a means of) circumventing Rule 3.01 of the Code of Professional Ethics, which says that a member shall not advertise his services.

It is the conclusion of the committee that distribution of newsletters, tax booklets or similar publications, prepared by others, when imprinted with the name of the accountant furnishing the material, is not in the interest of the public or the profession.

The committee sees no grounds for objection to furnishing material of the type indicated to clients or others provided that such material does not carry the imprint described and provided that such distribution is limited in a manner consistent with Rules 3.02 and 5.01.

OPINION NO. 2: Responsibility of Member for Acts of Others on His Behalf

Member may not carry out through others acts which he is prohibited from directly performing under the Institute's bylaws and Code of Professional Ethics

A member should not cause others to carry out on his behalf either with or without compensation acts which, if carried out by a member, would place him in violation of the Institute's Code or bylaws. To illustrate this principle, the committee has ruled that a member would be in violation of the Institute's Code of Professional Ethics if, with his approval:

1. A nonprofit organization in recognition of accounting services which had been rendered by a member placed without charge an advertisement of the firm in the organization's bulletin;
2. A bank announced to its depositors that a CPA would be at a desk on the main floor of the bank at certain hours and days during the tax season to assist customers in preparation of tax returns for a fee;
3. A trade association in its official publication announced that a certain certified public accountant, member of the Institute, who long had served the association as independent accountant, was especially well qualified and available to assist association members in dealing with accounting and tax problems peculiar to the industry.

OPINION NO. 3: Confidence of a Client

Member selling accounting practice should not give the purchaser access to working papers, income tax returns, and correspondence pertaining to accounts being sold without first obtaining permission of client

The seller of an accounting practice has a duty under Rule 1.03, pertaining to confidential relations, first to obtain permission of the client to make available to a purchaser working papers and other documents.

OPINION NO. 4: Authorship of Books and Articles*Responsibility of author for publisher's promotion efforts*

Many members of the Institute are especially well qualified to write authoritatively on accounting, taxes, auditing, management and related subjects and, in the interests of the public and the profession, are encouraged to write articles and books for publication. In the opinion of the committee it is of value to the reader to know the author's background (degrees he holds, professional society affiliation and the firm with which he is associated). It is held that publication of such information is not in violation of Rule 3.01.

It is the opinion of the committee that a member of the Institute has the responsibility to ascertain that the publisher or others promoting distribution of his work keep within the bounds of professional dignity and do not make claims concerning the author or his writing that are not factual or in good taste.

OPINION NO. 5: Prohibited Self-Designations*Use of title "Tax Consultant," "Tax Specialist" or similar description forbidden*

The "Statement of Principles Relating to Practice in the Field of Federal Income Taxation, Promulgated in 1951 by the National Conference of Lawyers and Certified Public Accountants," was approved by the Institute's Council. Section 5 of this statement reads as follows:

5. *Prohibited Self-Designations.* An accountant should not describe himself as a 'tax consultant' or 'tax expert' or use any similar phrase. Lawyers, similarly, are prohibited by the canons of ethics of the American Bar Association, and the opinions relating thereto, from advertising a special branch of law practice.

Under Article V, Section 4, of the Institute's bylaws a member renders himself liable to expulsion or suspension by the Trial Board if he refuses to give effect to any decision of the Institute or the Council.

It is the opinion of the committee that a reasonable period of time has

elapsed since the adoption of the Statement of Principles by Council within which the members could revise their stationery, directory and other listings so as to conform with the Statement.

OPINION NO. 6: Sharing of Fees

Sharing of fees with individuals or firms not engaged or employed in the practice of public accounting prohibited

Rule 3.04 prohibits a member or associate from receiving or paying a commission or sharing fees or profits with any individual or firm not regularly engaged or employed in the practice of public accounting as a principal occupation.

The rule does not prevent the payment or receipt of compensation for public accounting services rendered by an employee or consultant, whether such services are on a part- or full-time basis and whether the method of payment is on an hourly or fixed basis or is measured by the fees or profits resulting from the engagement.

The rule does prevent the sharing of fees or profits or the payment or receipt of a commission in those cases where the recipient rendered no services unless he was regularly engaged in public accounting as a principal occupation.

The committee believes that the existence of more than one "principal occupation" presents no difficulty unless any of the occupations are incompatible with the practice of public accounting. Whether or not an individual is engaged in the practice of public accounting as a principal occupation is a question of fact. The maintenance of an office or desk space, a listing in a directory, the possession of a license if one is required, and the availability for the performance of accounting services on a fee basis are all factors in making this determination.

The fact that an individual is a certified public accountant does not of itself indicate that such individual is "regularly engaged or employed in the practice of public accounting as a principal occupation." Rule 3.04 is not intended to apply to or prevent payments to a retired partner, employee or proprietor of a public accounting firm or to the heirs or estate of a deceased partner, employee or proprietor. Moreover, Rule 3.04 does not at present prohibit a partnership by a member or associate of the Institute in public practice with a person who is not a certified public accountant.

OPINION NO. 7: Data Processing Services

Since data processing services are considered to be services of a type performed by public accountants, members performing such services for the public must observe the bylaws and Code of Professional Ethics

Inquiries have been received as to the applicability of the Code of Professional Ethics to data processing services.

Some members propose to offer a full range of data processing services only to practicing public accountants; others, to offer such services directly to the public; and some propose to serve both the public and the profession. Some members would offer data processing services through their existing public accounting practice; others would offer these services through a separate partnership; and still others suggest that the corporate form is preferable for such activities.

Whether data processing services are offered to other practitioners or to the public, the same basic services are usually offered. These include the accumulation of data to be used for accounting purposes and statistical studies, maintenance of accounts, and bookkeeping services. The committee has long held that services of this type are similar to the "write-up" work in bookkeeping services rendered by many public accountants, and therefore, when offered to the public, are "services of a type performed by public accountants" (Rule 4.05).

This means that in performing such services for the public, members must abide by the Institute's bylaws and Code of Professional Ethics even though services of this type are also offered by nonprofessional commercial operations not bound by ethical rules.

1. Practitioners may not perform data processing services in corporate form for the public.

A member may, individually or in partnership with other persons engaged in the practice of public accounting as a principal occupation, perform the full range of data processing services for the public as well as for other practitioners. When such services are performed for the public, they are considered to be those of a type performed by public accountants, and consequently the bylaws and Code of Professional Ethics, including Rule 4.06, which prohibits practice in corporate form, must be observed (Rule 4.05). However, a member may have a financial interest in a corporation offering data processing services to the public provided such interest is not material to the corporation's net worth, and his interest in

and relation to the corporation is solely that of an investor. In addition, a corporate vehicle may be used for owning or leasing of the equipment.

2. Data processing services solely to practitioners may be offered in corporate form.

A member who offers data processing services solely to practicing public accountants is not considered to be offering accounting services to the public and, accordingly, would not be prohibited by Rule 4.06 from becoming an officer, director, stockholder or agent of a corporation engaged exclusively in that activity. Since advertising comes to the attention of the public, it would be permissible to circularize other practitioners, only in letter form, announcing that the necessary equipment and expertise are available for their clients' benefit, but are not available directly to the public.

3. Block time

The offering of "block time" on data processing equipment does not in itself constitute the practice of public accounting so long as it does not entail systems design, programming or service of any kind and what is being offered is the use of the equipment only. Accordingly, the availability of "block time" may be advertised provided the names of the CPAs and the fact that CPAs are involved are not disclosed. The offering of "block time" must not be used as a feeder to the member's practice.

References to Rule 4.06 in this Opinion relate to the prohibition against corporate practice which was repealed by the membership on December 30, 1969. The division of professional ethics has under consideration a revision of this Opinion consistent with Rule 4.06 as it appears in this booklet.

OPINION NO. 8: Denial of Opinion Does Not Discharge Responsibility in All Cases

When a member believes financial statements are false or misleading, denial of opinion is insufficient

Rule 2.02 deals with a member's responsibilities in expressing an opinion on representations in financial statements. The rule does not,

however, specifically refer to situations where an opinion is denied, either by disclaimer or by reference to the statements as "prepared without audit." When an accountant denies an opinion on financial statements under Rule 2.03, which incorporates the provisions of Auditing Statement 23,* he is in effect stating that he has insufficient grounds for an opinion as to whether or not the statements constitute a fair presentation. Rule 2.03 provides that where an opinion is denied, the accountant must indicate clearly his reasons therefor.

In a circumstance where a member believes the financial statements are false or misleading as a whole or in any significant respect, it is the opinion of the committee that he should require adjustments of the accounts or adequate disclosure of the facts, as the case may be, and failing this the independent accountant should refuse to permit his name to be associated with the statements in any way.

OPINION NO. 9: Responsibility for Firm Publications and Newspaper and Magazine Articles

Members responsible for distribution of firm literature and for information supplied to the public press

1. Newsletter and firm literature on special subjects

This refers to house organs and publications on accounting, tax accounting, articles of business interest or related subjects distributed under the auspices of, or through the facilities of, an individual or a firm for the information of clients and/or staff. The committee believes that these publications serve a useful purpose in keeping clients informed and in maintaining client relations. It does not believe that this medium should be curtailed, but the distribution of such material must be properly controlled. Distribution should be restricted to clients and individuals with whom professional contacts are maintained, such as lawyers

* Now incorporated in Statement on Auditing Procedure No. 33.

of clients, and bankers. Copies may also be supplied to nonclients who specifically request them and to universities if the material is of educational value and does not advertise the professional attainments or services of the firm as prohibited by Rule 3.01.

If requests for multiple copies are received, the firm should ascertain the intended distribution and the number of copies supplied should be limited accordingly. In granting requests for multiple copies, the individual or firm preparing the publications must assume the responsibility for any distribution by the party to whom they are issued which would violate Rule 3.02, on solicitation, or Rule 5.01, on encroachment on the practice of another public accountant.

2. Internal publications

This includes bulletins, pamphlets, etc., containing announcements of changes in staff, activities of partners and staff members, staff training articles and other matters intended for internal consumption. Because of the nature of these publications the committee does not consider outside distribution to be a major problem. However, if distribution goes beyond internal consumption, it is subject to the restrictions stated in Section 1.

3. Staff recruitment brochures

The committee is of the opinion that the distribution of staff recruitment brochures should be limited to college faculty and placement officials, students considering interviews and other job applicants. The material should be prepared in a dignified manner, and its purpose should be to assist the college graduate in evaluating the opportunities offered by the prospective employer and in answering questions pertaining to the scope of operations, staff training, possibilities for advancement, working conditions, location of offices, etc.

4. Newspaper and magazine articles regarding firms or members of the profession

Statements made by CPAs on subjects of public interest which are reported in the press and thereby contribute to public awareness of the profession are not considered advertising and are encouraged.

Publicity deliberately cultivated either directly or indirectly by a mem-

ber which advertises his or his firm's professional attainments or services, such as, but not limited to, the issuance of press releases regarding firm mergers, the opening of new offices, or admission of new partners, is prohibited by Rule 3.01.

OPINION NO. 10: Responsibility of Members for Pro Forma Statements and Forecasts Under Rule 2.04

In preparing for management any special purpose financial statement anticipating results of future operations, a member must disclose the source of the information used and the major assumptions made, and he must indicate that he does not vouch for the accuracy of the forecast

Rule 2.04 provides that "A member or associate shall not permit his name to be used in conjunction with any forecast of the results of future transactions in a manner which may lead to the belief that the member or associate vouches for the accuracy of the forecast."

The ethics committee is well aware that pro forma statements of financial position and results of operation, cost analyses, budgets and other similar special purpose financial data, which set forth anticipated results of future operations, are important tools of management and furnish valuable guides for determining the future conduct of business.

The committee is of the opinion that Rule 2.04 does not prohibit a member from preparing, or from assisting a client in the preparation of, such statements and analyses. However, when a member associates his name with such statements and analyses, or permits his name to be associated therewith, there shall be the presumption that such data may be used by parties other than the client. In such cases, full disclosure must be made of the source of the information used, or the major assumptions made, in the preparation of the statements and analyses, the character of the work performed by the member, and the degree of responsibility he is taking. Such disclosure should be made on each statement, or in the member's letter or report attached to the statements. The letter or report of the member must also clearly indicate that the member does not vouch for the accuracy of the forecast. It is the opinion of the committee that full and adequate disclosure would put any reader of such statements on notice and restrict the statements to their intended use.

OPINION NO. 11: Advertising and Indication of Specialty Prohibited

Advertising prohibitions relating to announcements, directories, business stationery, business cards, and office premises

In the opinion of the committee on professional ethics, Rule 3.01 prohibits a member or associate from advertising his professional attainments or services through any medium. The rule clearly prohibits the publication of an announcement, also referred to as a "card," or advertising in the usual form in newspapers, magazines or other public media. It prohibits imprinting members' names, or the firm names of members, on tax booklets or other publications prepared by others. It further prohibits the association with a member's name of such phrases as "tax consultant," "tax expert," "management services," "bank auditor" and any other designations which indicate the special skills that a member possesses or particular services which he is prepared to render. It does not prohibit the use of the firm affiliation and the CPA designation in connection with authorship of technical articles and books, and it does not prohibit publicity which is of benefit to the profession as a whole.

The committee recognizes, however, that there are media, which may or may not be available to the public generally, in which it is both professional and desirable for a member's name to appear under certain circumstances. Such media include card announcements, directories, business stationery, business cards, and office premises. The committee's views on the uses of such media are as follows:

1. Announcements

- a. Announcements of change of address or opening of a new office and of changes in partners and supervisory personnel may be mailed to clients and individuals with whom professional contacts are maintained, such as lawyers of clients and bankers.
- b. Such announcements should be dignified, and fields of specialization are not permitted to be included in the announcements.

2. Directories

a. General

- (1) A listing in a classified directory is restricted to the name, title (certified public accountant), address and telephone number of the person or firm, and it shall not appear in a box, or other

form of display, or in a type or style which differentiates it from other listings in the same directory.

- (2) Listing of the same name in more than one place in a classified directory is prohibited, and, where the classified directory has such headings as "Certified Public Accountants," or "Public Accountants," the listing shall appear only under one of those headings. Each partner's name, as well as the firm name, may be listed.

b. Yellow (or business) section of classified telephone directories

Listings are permitted only in the classified directories which cover the area in which a bona fide office is maintained. Determination of what constitutes an "area" shall be made by the state societies in the light of local conditions.

c. Trade associations and other membership directories

- (1) Listings of members in such directories are restricted to the information permitted in 2(a)(1) and 2(a)(2) above, and, if classified, are further restricted to a listing under the classification of "Certified Public Accountants" or "Public Accountants."
- (2) Where the directory includes geographical as well as alphabetical listings, a member may be listed in such geographical section in addition to the listing permitted above.

3. Business stationery

- a. Information appearing on a member's stationery should be in keeping with the dignity of the profession. It shall not include a listing of areas of specialization of the member or his firm, and separate stationery for tax or management services, or other specialized departments of the firm, is prohibited.

b. The stationery may include

- (1) The firm name, names of partners, names of deceased partners and their years of service, and names of staff men when preceded by a line to separate them from the partners.
- (2) The letters "CPA" following the name, the use of the words "Certified Public Accountant(s)," the address (or addresses) of office(s), telephone number(s), cities in which other offices and correspondents are located, and membership in professional societies in which all partners are members.

- (3) The public accountant designation of "Accountants and Auditors" in place of "CPA" or "Certified Public Accountant(s)" where state law or partnership affiliation does not permit such use.
 - c. In the case of multi-office firms, it is suggested that the words "offices in other principal cities" (or other appropriate wording) be used instead of a full list of offices. Also, it would be preferable to list only the names of partners resident in the office for which the stationery is used.
4. Business cards
- a. Business cards may be used by partners, sole practitioners and staff members. They shall be limited to the name of the person presenting the card, his firm name, address and telephone number(s), the words "certified public accountant(s)" or "CPA" and such words as "partner" or "manager," but without any specialty designation.
 - b. Members not in public practice may use the letters "CPA" after their names when acting as treasurer, controller, or in other internal accounting capacities for an organization, but shall not do so when engaged in sales promotion, selling or similar activities.
5. Office premises
- a. Listing of the firm name in lobby directories of office buildings, and printing it on entrance doors within the building, or on the entrance to a member's office if located other than in an office building, are solely for the purpose of enabling interested parties to locate such office. The listing should conform to the size and style of other listings in the same building and should be in good taste and modest in size.
 - b. The use of the words "income tax," or other specialized wording, in connection with the office of the member, including special illumination of such lettering, and signs on windows (except where such window is adjacent to the entrance), walls, building fronts or transportation equipment used by the member(s) shall constitute advertising and shall be deemed to be a violation of the rule.
6. "Help wanted" advertisements
- a. An advertisement for "help wanted" in any publication shall not be in the form of display advertising when the name of a member

or associate, or of a firm of which he is a partner, appears anywhere in the advertisement. In display advertising the use of telephone number, address or newspaper box is permissible.

- b. In "help wanted" classified advertisements, other than display, the name of the firm, member, or associate should not appear in bold face type, capital letters, or in any other manner which tends to distinguish the name from the body of the advertisement.
- c. If a firm advertises for specialists, the advertisement must not convey the impression that specialized services are being offered to the public.

7. "Situations wanted" advertisements

A member or associate shall not advertise for employment in such a manner as to indicate that he is soliciting engagements as a public accountant:

- a. If the purpose of the advertisement is full-time employment as an accountant for a public accounting firm or in private industry, or per diem services to public accounting firms, statements of qualifications are permitted. Such phrases as "tax expert," "financial specialist," or any statement of self-glorification will not be permitted.
- b. An advertisement in a publication of general circulation for part-time services for which a fee is charged or per diem services (except to public accounting firms) is considered a violation of Rule 3.01.
- c. An advertisement should not appear under such headings as "Business Services" or "Professional Services." It should not be of the display type and response should be directed to a box, address or telephone number.

OPINION NO. 12: Independence

Auditor's responsibility to avoid relationships which to a reasonable observer might suggest a conflict of interest; propriety of member's rendering tax and management advisory services to clients on whose financial statements he expresses an independent opinion

Rule 1.01 of the Code of Professional Ethics states in part that "a member or associate, before expressing his opinion on financial state-

ments, has the responsibility of assessing his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts."

Questions have arisen as to what relationships with an enterprise might be regarded by a reasonable observer, who had knowledge of all the facts, as those involving conflicts of interest which might impair the objectivity of a member in expressing an opinion on the financial statements of the enterprise. The committee does not believe that normal professional or social relationships would suggest such a conflict of interest in the mind of a reasonable observer.

In 1947 the Council of the American Institute said in an official statement on independence:

Independence is an attitude of mind, much deeper than the surface display of visible standards.

It also said:

In the field of auditing, the certified public accountant is under a responsibility peculiar to his profession, and that is to maintain strict independence of attitude and judgment in planning and conducting his examinations, and in expressing his opinion on financial statements. . . . It has become of great value to those who rely on financial statements of business enterprises that they be reviewed by persons skilled in accounting whose judgment is uncolored by any interest in the enterprise, and upon whom the obligation has been imposed to disclose all material facts. . . .

While endorsing the Council's statement that independence is an attitude of mind, the committee recognizes that it is of the utmost importance to the profession that the public generally shall maintain confidence in the objectivity of certified public accountants in expressing opinions on financial statements. In maintaining this public confidence, it is imperative to avoid relationships which may have the appearance of a conflict of interest.

It is this reasoning which led the Institute to include in Rule 1.01 of the Code of Professional Ethics the statements that members should not have any financial interest in, or serve as officers or directors of, clients on whose financial statements they express opinions.

The committee does not intend to suggest, however, that the rendering of professional services other than the independent audit itself would suggest to a reasonable observer a conflict of interest. For example, in the areas of management advisory services and tax practice, so long as the CPA's services consist of advice and technical assistance, the commit-

tee can discern no likelihood of a conflict of interest arising from such services. It is a rare instance for management to surrender its responsibility to make management decisions. However, should a member make such decisions on matters affecting the company's financial position or results of operations, it would appear that his objectivity as independent auditor of the company's financial statements might well be impaired. Consequently, such situations should be avoided.

In summary, it is the opinion of the committee that there is no ethical reason why a member or associate may not properly perform professional services for clients in the areas of tax practice or management advisory services, and at the same time serve the same client as independent auditor, so long as he does not make management decisions or take positions which might impair that objectivity.

OPINION NO. 13: Tax Practice

Application of Code of Professional Ethics to tax practice

It is the opinion of the committee that the Code of Professional Ethics applies to the tax practice of members and associates except for Article 2, relating to technical standards, and any other sections of the Code which relate only to examinations of financial statements requiring opinions or disclaimers.

The committee is of the opinion that the statement, affidavit or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer within the meaning of Article 2 of the Code.

In tax practice, a member or associate must observe the same standards of truthfulness and integrity as he is required to observe in any other professional work. This does not mean, however, that a member or associate may not resolve doubt in favor of his client as long as there is reasonable support for his position.

OPINION NO. 14: Management Advisory Services

Application of Code of Professional Ethics to management advisory services

Inquiries have been received as to the applicability of the Code of Professional Ethics to management advisory services. It is the opinion of the

committee that all the provisions of the Code of Professional Ethics apply to management advisory services, except those rules solely applicable to the expression of an opinion on financial statements.

OPINION NO. 15: Disclaimer of Auditor Lacking Independence

Opinion No. 15, "Disclaimer of Auditor Lacking Independence," was rescinded in January 1970 by the division of professional ethics upon issuance by the committee on auditing procedure of Statement on Auditing Procedure No. 42 "Reporting When a Certified Public Accountant Is Not Independent."

In withdrawing this Opinion, the division calls attention to the note accompanying each Statement on Auditing Procedure to the effect that the burden of justifying departures from the auditing procedure committee's recommendations must be assumed by those who adopt other practices.

OPINION NO. 16: Retired Partners and Firm Independence

A firm's independence is considered impaired if a retired partner, still active in the affairs of the firm, is a director or stockholder of an audit client

The committee on professional ethics has considered the question of an accounting firm's independence when a retired partner of the firm acquires any direct financial interest or a material indirect financial interest in an enterprise on whose financial statements the firm is expressing an opinion or when he becomes connected with such enterprise as a promoter, underwriter, voting trustee, director, officer or key employee.

Under Rule 1.01 it is the auditor's responsibility to assess all of his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts. The committee believes that certain relationships of a retired partner with the firm of which he was formerly a partner and with a client of that firm might suggest to a reasonable observer that the firm was lacking in independence.

For example, if a retired partner remains active in the affairs of the firm, even though not officially, the independence of the firm would be impaired

if he were an officer, director, stockholder or key employee of a client on whose financial statements the firm expresses an opinion.

However, the committee believes that if a retired partner is no longer active in the firm (regardless of the fact that he receives retirement benefits), the independence of the firm would not be impaired by his being an officer, director, stockholder or key employee of a client on whose financial statements the firm expresses an opinion, provided that the fees received from such client do not have a material effect on his retirement benefits. A retired partner who has such a relationship with a client should not be held out as being associated with his former partnership.

OPINION NO. 17: Specialization

A member may form a separate partnership with non-CPA specialists in management services, provided such partnership observes the profession's Code

Inquiries have been received as to ethical problems arising when CPA firms enter the fields of data processing, operations research and other management services. This broadening of services is consistent with the objective adopted by the Institute's Council in April 1961, "... to encourage all CPAs to perform the entire range of management services consistent with their professional competence, ethical standards and responsibility."

In expanding services into more specialized fields, CPA firms frequently find it necessary to employ or associate with technical experts who may not be certified public accountants. This creates the problem of providing these specialists with adequate recognition and responsibility within the framework of the profession's ethical standards.

Two methods of solving this problem have evolved: (1) elevating non-CPA specialists to the rank of "principals," and allowing them to participate in the profits of the firm; (2) establishing a separate partnership which does not hold itself out as practicing public accounting and therefore may have non-CPA partners.

The committee has studied each of these methods to determine whether there is any infringement of the Code of Professional Ethics, and to establish the ethical standards under which these methods may be employed.

An investigation of the designation "principals" for non-CPA spe-

cialists and of the relationship of these individuals to the firm revealed the following: (1) "Principals" are high ranking employees who receive a base salary and who share in the profits of the firm. (2) "Principals" do not make capital contributions to the firm, do not share in the losses of the firm and have no vote in, or responsibility for, partnership decisions.

The indicated characteristics do not appear to create a partnership relationship. In fact, the attorney general of at least one state has held that such noncertified individuals, designated by a firm as "principals," are not members of the partnership and that their association with the firm as "principals" was not a violation of the accountancy statute of that state.

Since these "principals" are neither CPAs nor partners, the question arises whether the relationship is in violation of Rule 3.04 (fee sharing) or Rule 4.03 (employee's performing services which the member himself is not permitted to perform).

Rule 3.04 prohibits fee sharing with "any individual or firm not regularly engaged or employed in the practice of public accounting as a principal occupation." These "principals" are, in the committee's opinion, employed in the practice of public accounting. Consequently, Rule 3.04 does not apply. As for Rule 4.03, the services performed by these specialists (e.g., data processing, operations research, etc.) are not services regulated by law. Therefore, in the opinion of the committee, it cannot be said that employees are performing services which the member himself is not permitted to perform under the law.

The committee considered whether or not, in the absence of statutory restrictions, it would be a violation of the Institute's Code of Professional Ethics to make these non-CPA specialists partners of the firm.

The ethics committee, in Opinion No. 6, has held that Rule 3.04 does not at present prohibit a member from practicing public accounting in partnership with a person who is not a certified public accountant. Therefore, in the opinion of the committee, nothing in the Institute's present Code would prohibit members from admitting these non-CPA specialists into the partnership, although in many cases state laws would preclude the partnership from practicing under professional accounting titles and from expressing opinions on financial statements.

The second method of obtaining the necessary specialists for CPA firms to expand into the management services field is the formation of a separate partnership which does not hold itself out as practicing public accounting and which is therefore not regulated under the state's accountancy statute.

As pointed out previously, the ethics committee has ruled that the Code does not presently prohibit a member from practicing public accounting in partnership with a person who is not a certified public accountant.

Therefore, the committee finds in the present Code no prohibition against the formation of a separate partnership with non-CPA specialists.

However, Rule 4.05 of the Code of Professional Ethics provides that a member engaged in an occupation in which he renders services of a type performed by public accountants must observe the bylaws and Code of Professional Ethics in the conduct of that occupation. In addition, the ethics committee has ruled that data processing, operations research and other management services are "services of a type performed by public accountants."

Therefore, the committee is of the opinion that nothing in the Institute's Code of Professional Ethics presently prohibits a member from forming, or becoming a member of, a separate partnership with non-CPA specialists for the rendering of various management services as long as such partnership observes the bylaws and Code of Professional Ethics. Such a separate partnership would not be permitted to advertise, solicit clients, accept commissions or do anything else prohibited by the Code. Nor would it be permitted to hold itself out on letterheads, cards, signs, etc., in directory listings or through its partnership name as specializing in a particular service.

It should be emphasized that the committee's opinion is based upon the Code of Professional Ethics as it is now constituted. The provisions of the Code relating to this area are now under study for the purpose of determining the necessity of any revisions. If the provisions in question are revised, it may be necessary to modify or withdraw this opinion.

The conclusions reached by the committee are in accord with Opinion No. 7.

OPINION NO. 18: Fees and Professional Standards

Offering to perform services for an inadequate fee may be evidence of solicitation

In determining the amount of his fee, a CPA may assess the degree of responsibility being assumed in the engagement, the time and manpower required to perform the service in conformity with the standards of the profession, the skills needed to discharge his professional obligation to the client and the public, the value to the client of the services rendered and the customary charges of professional colleagues. Other considerations may also be involved. No single factor can be controlling.

It is characteristic of all professional persons to be more concerned

with fulfilling their responsibilities to the public than with immediate financial reward. On occasions they may appropriately choose to serve a client for a fee less than cost, or indeed without any compensation whatever.

However, to quote a fee in advance of an engagement in an amount clearly inadequate to provide fair compensation for performing service in accordance with accepted professional standards may be regarded, in some circumstances, as evidence of solicitation in violation of Rule 3.02 of the Code of Professional Ethics. Without attempting to specify all circumstances that might be relevant in determining the propriety of a particular quotation, it would be appropriate to consider whether there were any facts suggesting that such inadequate fee had been fixed as a part of a plan or design to solicit business.

In such cases of inadequate fees there may be a temptation to minimize losses by reducing the amount of work below that required by Rule 2.02 of the Code, with serious consequences for third parties who rely upon opinions on financial statements.

OPINION NO. 19: Independence of Members Expressing Opinions on Financial Statements of Banks

Some deposit or loan relationships may affect auditor's independence

Rule 1.01 states in part "A member . . . before expressing his opinion on financial statements, has the responsibility of assessing his relationships with an enterprise to determine whether, in the circumstances, he might expect his opinion to be considered independent, objective and unbiased by one who had knowledge of all the facts."

With the increasing number of engagements involving the expression of opinions by certified public accountants on the financial statements of banks, questions have been raised as to whether a deposit or a loan relationship between a bank and its auditors may affect the auditor's independence.

With respect to deposits, the auditor's independence may be impaired if deposits of a member or his firm are in jeopardy during the period from the commencement of field work to the date of the auditor's report.

A member or his firm having loans from a bank would be considered to be lacking in independence if such loans in the aggregate are material in relation to the net worth of the firm and its partners, or if a partner has a loan from a bank, not guaranteed by the firm, which is material to

his net worth. The foregoing statement would not apply to home mortgages or other secured loans arising out of the bank's normal lending procedures. Materiality applies to the period mentioned in the preceding paragraph.

Where the bank maintains a trust department, the auditor should also assess his relationship with that department in the light of the foregoing criteria. For example, if the trust department holds a trust fund of which the auditor is a beneficiary or holds assets of the auditor's retirement plan and such assets are in jeopardy during the period of his examination, the auditor's independence may be impaired.

Ethics Opinion No. 21: Participation in Educational Seminars

This opinion discusses the applicability of Rules 3.01 (advertising) and 3.02 (solicitation) when a member or his firm participates in educational seminars either in person or through audio-visual techniques.

The division believes that participation in a program of educational seminars about matters within the field of competence of CPAs is in the public interest and is to be encouraged so long as such seminars are not used as a method of direct or indirect solicitation of clients. Therefore, certain restraints must be imposed to avoid violating the spirit of Rules 3.01 and 3.02. For example, a member or his firm should not:

1. Send announcements of a seminar to non-clients or invite them to attend. However, substantially full-time teachers of business administration courses may be invited to attend to further their education.
2. Sponsor, or convey the impression that he is sponsoring, a seminar which will be attended by non-clients. However, a member or his firm may conduct educational seminars solely for clients and those serving clients in a professional capacity who have been invited by the clients to attend.

In addition, when a seminar is sponsored by others and attended by non-clients, a member or his firm should not:

1. Solicit the opportunity to appear on the program.
2. Permit the distribution of publicity concerning the seminar to include more information than may appear in accordance with Opinion No. 4 about an author of a book or article, i.e., the name of the member, the degrees he holds, professional society affiliation and the firm with which he is associated.
3. Distribute firm literature which is not directly relevant to a subject being presented on the program by the member or his firm.

Ethics Opinion No. 20: Recurring and Nonrecurring Client Relationships

This opinion discusses the applicability of Rules 3.02 (solicitation) and 5.01 (encroachment) to situations in which a client is using the services of more than one CPA firm. The opinion applies only to situations covered by these two rules and is not intended to define "client" for other purposes.

On occasion, clients engage more than one CPA firm at the same time to provide different services. In some cases, one firm may be engaged to perform management services while another performs the audit and annual tax services. In other cases, an enterprise may engage one firm to perform audits and another to perform tax services. In still other cases, an enterprise which customarily engages one CPA firm for tax services may engage another CPA firm to assist in the settlement of a tax dispute. Other relationships in different combinations exist. For the purpose of clarifying the application of Rules 3.02 and 5.01 to various circumstances, relationships between a client and a CPA firm are classified as either "recurring" or "nonrecurring."

A "recurring" relationship exists when a CPA has performed, is performing, or has been engaged to perform services for a client, and the nature of the services is such that the CPA may reasonably expect to perform such services in the future. In such a case, the accountant-client relationship continues until affirmatively terminated. In merger situations this recurring relationship continues until affirmatively terminated even though the corporate identity or the organizational structure of the client may be substantially altered in the merger.

A "nonrecurring" relationship exists when a CPA performs an engagement for a specific purpose and the engagement, by its nature, is not expected to recur. The CPA-client relationship terminates when work on the engagement is completed.

If more than one CPA has a recurring relationship with a client, any of such CPAs may suggest the performance of services not being rendered by another CPA without violating Rules 3.02 or 5.01. However, endeavors by a member to replace another CPA who has either a recurring or nonrecurring relationship would be considered a

violation of Rule 5.01. Such endeavors might include, but would not be limited to, sending firm literature or extending invitations to seminars, the subject matter of which relates to services being performed for the client by the other CPA. The foregoing does not apply to a member who assumes the primary responsibility for the opinion on the fairness of the combined or consolidated statements where different CPAs perform attest services for subsidiaries, branches or other components.

A CPA performing a nonrecurring engagement for a client who has a recurring relationship with another CPA can ethically seek to extend services to areas closely related to the engagement and clearly unrelated to the work done by the other CPA, but only during the period of his limited engagement. It is suggested as a matter of professional courtesy that the CPA who is performing a nonrecurring engagement and who perceives the need for additional services should bring those needs to the attention of the CPA with the recurring relationship. So long as another CPA has a recurring relationship, any attempt by a member to extend services to areas not closely related to the special engagement would result in a violation of Rule 5.01. For example, invitations to educational seminars and the distribution of firm literature to nonrecurring clients would have to be limited to subject matter closely related to the specific engagement, and could be made only during the period of the engagement.

When a CPA is asked to perform services for a client who presently has a recurring relationship with another CPA, it is suggested that the new CPA contact the incumbent CPA in order to avoid misunderstanding.

A CPA performing a nonrecurring engagement for a client who has no relationship with another CPA may ethically seek to extend services to all other areas during the period of his limited engagement.

In the absence of a recurring relationship, offers to provide services after completion of a limited engagement would constitute a violation of Rule 3.02, unless the offer was in response to an inquiry from the client. However, in the event of a new development which is closely related to a completed special engagement, a CPA may bring the development to the attention of his former client.